

Schools can make tax-free sales of meals to students and employees at dining facilities that are closed to the public. See, 86 Ill. Adm. Code 130.2005(b)(4). (This is a GIL).

March 3, 2000

Dear Xxxxx:

This letter is in response to your letter dated February 17, 2000. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

We would very much appreciate if you could clarify by return fax at ##### the exempt status of ROT/UT under (.06, .075) which as per CCI reads following:

'Sales at School cafeterias that serve only student and school employees are not subject to the ROT/UT. However, sales are taxable if the dining facility is available for use by persons other than students or employees.'

Question:

- 1) Does the word School covers all educational institutions including the State Colleges or is limited to a certain definition which constitutes a school.
- 2) Are there any other conditions and qualifications that sales must comply.

Thanking you.

Schools can make tax-free sales to students and employees at dining facilities that are closed to the public. See 86 Ill. Adm. Code 130.2005(b)(4), enclosed. However, if a school's dining facility is opened to the public, then all sales, including sales to students and employees, are subject to tax. In a college campus setting, this has meant that sales of meals in a closed dormitory cafeteria were exempt but all food sales in a student union type setting, including sales to students, were taxable. The regulation and the closed cafeteria concept have been in effect for many years and two purposes are served. The first purpose served by the closed cafeteria concept is to solve the practical impossibility that the Department would face when auditing an open facility in verifying that all of the sales claimed to be exempt were, in fact, made to students. The second purpose served by the regulation is the protection of retailers in competition with the school's open facility. That is, student union (open to the public) type selling competes with area food service establishments for student purchases as well as for purchases by the public.

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As stated above, universities would not incur tax liability on their operation of dining facilities that confine their selling to the students and employees of the schools. The definition of a student for the purpose of the exemption is a person who is taking a course from the school for credit. See 86 Ill. Adm. Code 130.2005(b)(4)(B).

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk
Enc.